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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,463	04/02/2004	Charles J. Kingdon	41854-P001US	3185
39770	7590	05/04/2005	EXAMINER	
SANFORD E. WARREN, JR. P.O. BOX 50784 DALLAS, TX 75201			PELHAM, JOSEPH MOORE	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/817,463

Applicant(s)

KINGDON ET AL.

Examiner

Joseph M Pelham

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 1-16 and 21-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/10/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Claim Rejections - 35 USC § 102

Claims 1-7, 12, 15, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. 4554437 (US'437).

Referring to Figs. 2 & 6, col. 5, lines 49-64, and col. 6, lines 17-39, especially, US'437 discloses the oven as claimed, including independently controlled inlet and outlet zones (I, II, III) and flat, "bar"-type heaters (54, 58, 62, 64).

Claims 8-11, 13, 14, 16, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'437 in view of U.S. Pat. 6075230 (US'230).

The claims differ from US'437 only in calling for concave ceramic heaters, emission in the 2-7 micron range, power density in the range 6-39 W/sq. in., and a first set point temperature for the first heating zone and a second set point temperature for the inlet and outlet heating zones. However, US'230 discloses, at Fig. 1 and col. 1, line 64, through col. 2, line 4, that concave ceramic heaters were well known at the time of the invention. It would have been obvious to adapt the concave heaters of US'362 to the oven of US'437 depending on the specific types of cooking processes, where a 'roasting' process, for example, would require such intensity of radiant heat. Moreover, the set point temperatures do not patentably distinguish the claimed invention from the prior art; it would have been obvious to select the recited set point temperatures, or alternative settings, strictly in accord with known temperature regimes required for specific cooking processes and particular food items. Further, the heater of US'230 would appear *prima facie* to have power density in the range 6-39 W/sq. in.

Allowable Subject Matter

Claims 17-20 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

5/2/05


JOSEPH PELHAM
PRIMARY EXAMINER